IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 310 OF 2002

The Commissioner of Income-tax,
Mumbai City-VI, Mumbai. .. Appellant

v/s.

Sandoz (India) Ltd. .. Respondent

Mr.K.R.Chaudhary i/by Mr.H.D.Rathod for appellant.

Mr. Nitesh Joshi i/by M/s. Kanga & Co. for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th August, 2004

P.C.

Heard.

2. In the memorandum of appeal, two substantial questions of law have been proposed viz.

> "1. Whether on the facts and in the circumstances of the case the Tribunal was right in law in confirming the order of the CIT(A) in deleting the addition of Rs.45,64,968/- made by the Assessing Officer to the closing stock on account of unutilised Modvat Credit?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) in deleting the disallowance of Rs.1,11,830/- made by the Assessing Officer under Rule 6B in respect of expenditure incurred by the assessee on presentation of article and gifts?"

3. As regards question No.1, the learned counsel for the revenue-appellant fairly conceded that the said question stands concluded by the judgment of the Supreme Court in the case of Commissioner of Income-Tax v. Indo Nippon Chemicals Co. Ltd., 261

ITR 275. In view thereof, the decision of the Tribunal on this aspect cannot be faulted.

4. As regards the proposed question No.2, the learned counsel for the revenue conceded that this question is concluded by the Division Bench judgment of this court in the case of Commissioner of Income-Tax v. Allana Sons Pvt.Ltd., 216 ITR 690. The view of the Tribunal on this aspect also, therefore, cannot be faulted.

5. No substantial question of law arises. Appeal is dismissed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)